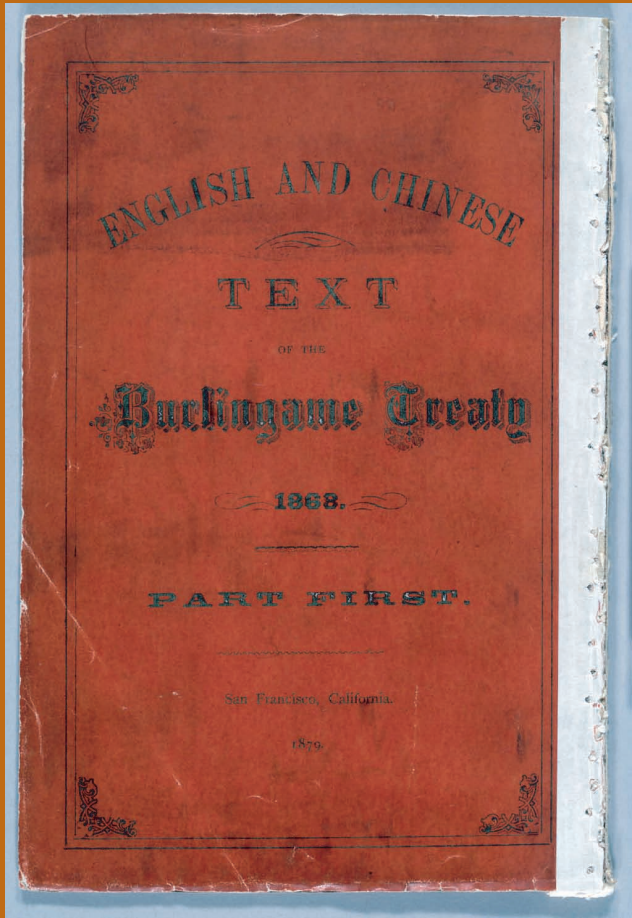


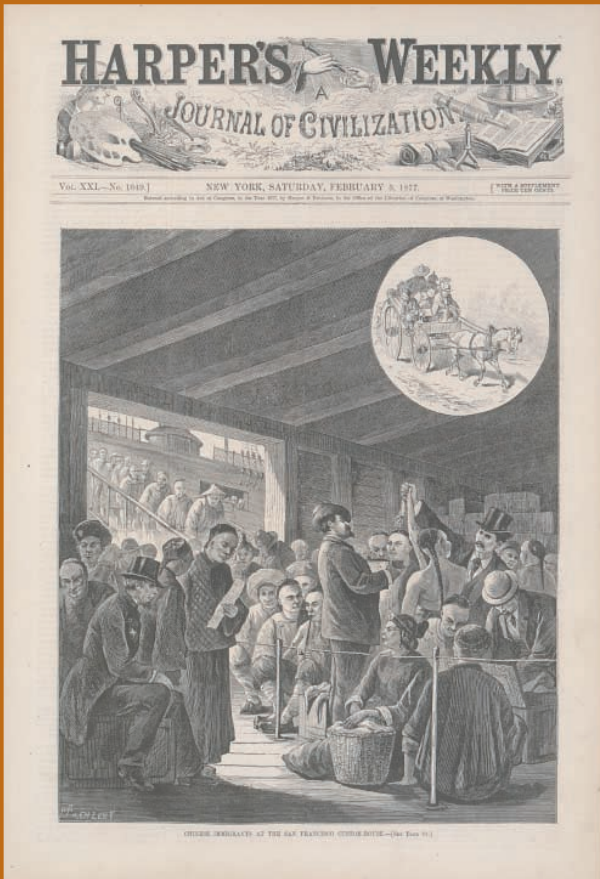
CHINESE EXCLUSION LAWS: THE HABEAS CORPUS MILL



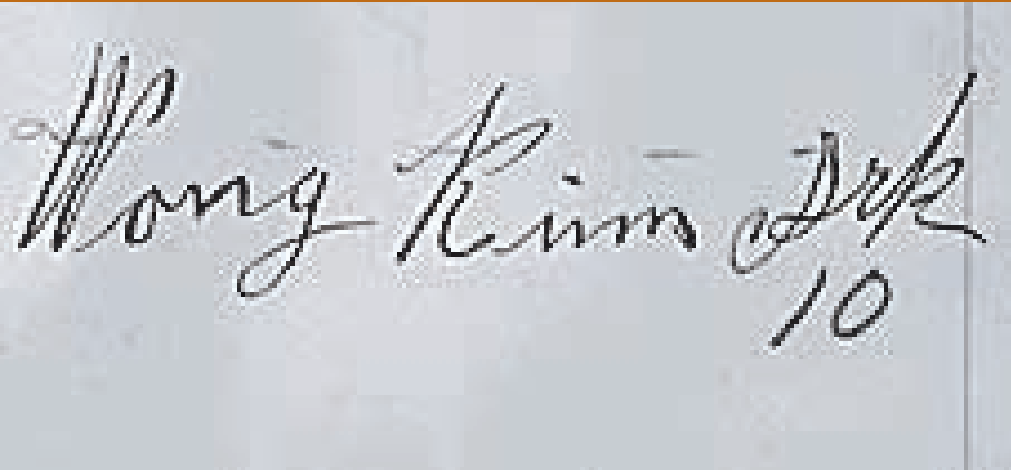
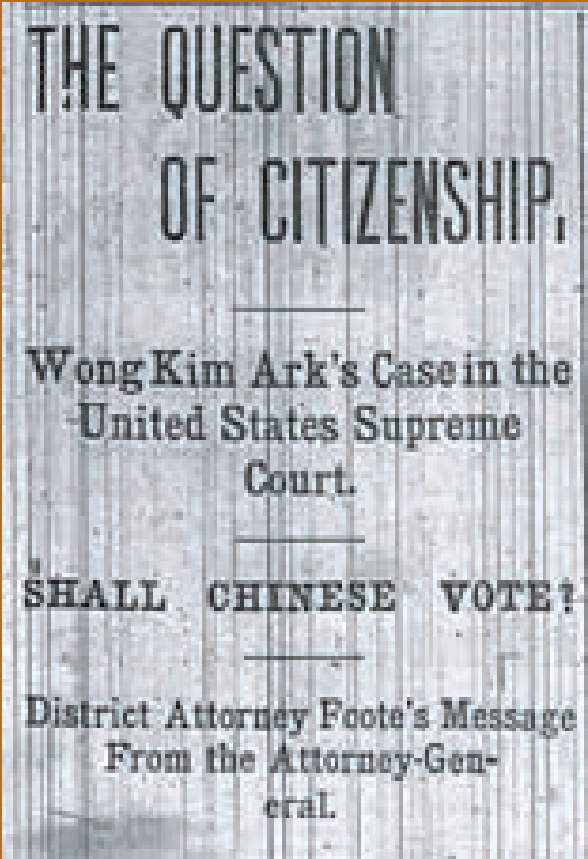
“Burlingame Treaty, English and Chinese Text, 1879, San Francisco” Available from the Online Archive of California



Chinese Immigration streaming to California: Credit: Available from the Online Archive of California



Harpers weekly, Chinese at the San Francisco Custom House



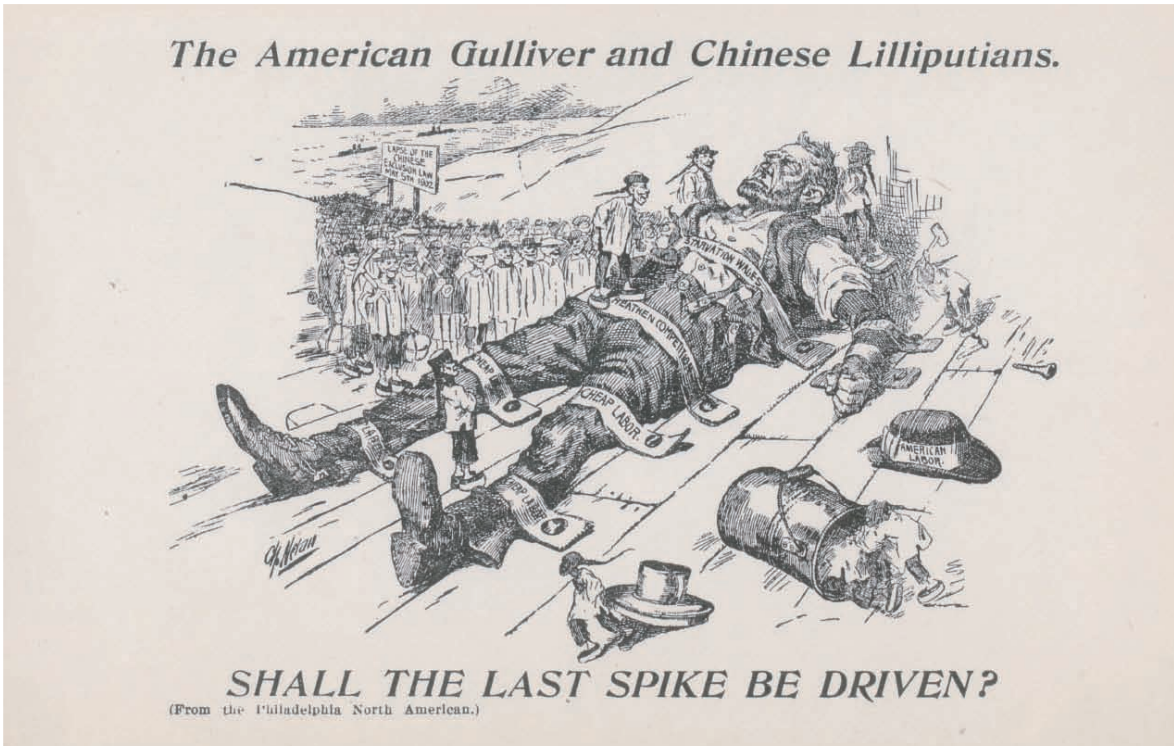
Art: photo, signature and newspaper clip all from UC Hastings College of Law “All Persons Born or Naturalized: The Legacy of Wong Kim Ark,” 2001

The 1869 Burlingame Treaty between the United States and China had established an open immigration policy between the two countries, but it was increasingly at odds with California’s and the nation's attitude toward Asian immigration.

With the Gold Rush over and the railroads built, Chinese immigrants took up farming or moved to cities and towns to look for work. Chinese immigration remained high. An economic depression in the 1870s added to the cultural and economic animosity that many whites already felt towards the Chinese immigrants.

This attitude spilled East from California and in 1882, Congress passed the Chinese Exclusion Act, which effectively banned Chinese workers from coming to the United States and stated that no Chinese person could become a U.S. citizen.

San Francisco was the most frequently used port for Chinese passengers to the United States. When the local Customs Collector would deny their entry for lack of a return certificate, the Chinese business community would rally to their legal aid and a writ of habeas corpus would be filed to attempt to secure their release from the ships in which they were being held. More than 7,000 writs were filed in the admiralty docket of District Court in the 1880s and 1890s. The resulting bottleneck was quickly dubbed the habeas corpus “mill.” Many of the cases went on to the U.S. Supreme Court.



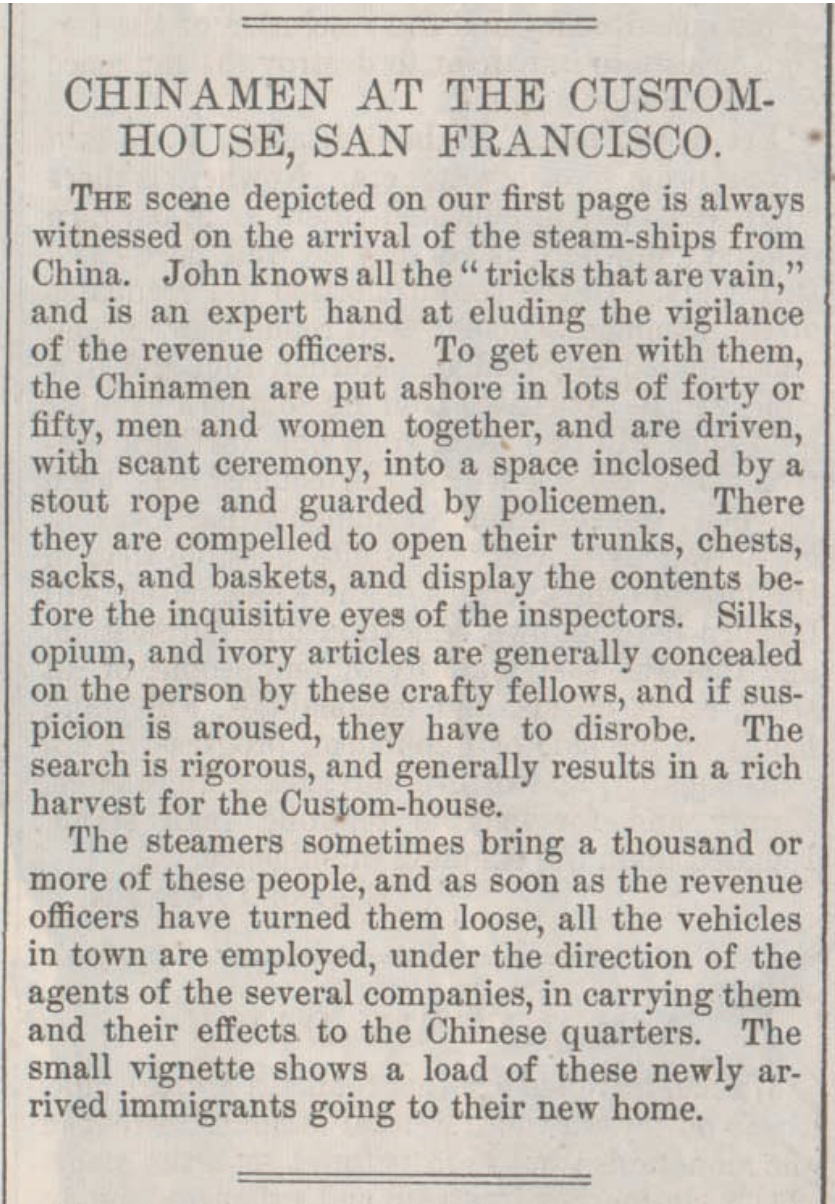
Courtesy Bancroft Library, University of California, Berkeley

Case of Wong Ark Kim

Wong Ark Kim was born in San Francisco’s Chinatown in 1873 to Chinese immigrant parents. After a visit to China in 1895, he sailed back to San Francisco and was detained by the Collector of Customs there on the grounds the Chinese Exclusion Act forbid entry to Chinese immigrants, especially laborers. Ark insisted that he was an American citizen. He had made a similar trip to China in 1890 and been allowed re-entry as a U.S. citizen. But this time he was held aboard the steamship Coptic. A lawyer for the Chinese Consulate in San Francisco, Thomas Riordan, and the Chinese Six Companies, filed a writ of habeas corpus on his behalf in the federal district court citing his U.S. birthplace and the precedent of Look Tin Sing (1884). In that case, the Circuit Court ruled that a Mendocino-born Chinese man, who had gone to school in China for four years, was a U.S. citizen and thus could not be denied re-entry in San Francisco. Judge William Morrow granted Ark’s writ and he was released from the ship. The government appealed the case to the U.S. Supreme Court. The appeal hinged on the first clause of the Fourteenth Amendmment which states “... all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States.” Wong Kim Ark was not a U.S. citizen, the government argued, because his Chinese parents made him subject to the emperor of China. In a 6-2 decision the court ruled that a child born to two Chinese nationals legally present on American soil was an American citizen and thus entitled to all the rights and priviledges. The Chinese Exclusion Acts were not officially repealed until 1943 and U.S. race quotas on immigration weren’t abolished until 1965.

Reaction from local papers to Wong Kim Ark ruling and appeal to US Supreme Court

"The question at issue is not one that affects American-born Chinese only, but every American-born son of a foreign-born father who did not become a naturalized citizen of this country prior to the time arrived at maturity. In this view of the case one sees at a glance that many thousands of voters all over the United States are deeply interested in the knotty legal problem, though of course should the United States Supreme Court reverse the ruling of Judge Morrow, as it is confidently expected that it will, the American-born Chinese will be the only ones ultimately deprived of citizenship. Sons of non-naturalized Caucasians will merely have to secure naturalization in the ordinary way. But the Mongolians, while the existing Chinese restriction laws are in force, will be forever barred from citizenship."



San Francisco Call, Feb. 8, 1896